IN THE

Supreme Court of the United States

No. 71-24

UPPER ALLEGHENY SAND & GRAVEL CO., INC.

Petitioner,

v.

UNITED STATES OF AMERICA, and
SENECA NATION OF INDIANS,

Respondents.

MEMORANDUM OF SENECA NATION OPPOSING CERTIORARI

Respondent Seneca Nation of Indians represents to the Court as follows:

The sole question presented in the petition for a writ of certiorari which concerns the Seneca Nation is "The measure of just compensation due a lessee under a lease having a short remaining term...." Pet., p. 9. The rule for valuing

a leasehold interest taken in Federal condemnation proceedings was established by this Court in *United States v. Petty Motor Co.*, 327 U.S. 372 (1946), and petitioner herein actually is attempting just to upset the application of that rule by the courts below. Since the real issue involved is factual, and not legal, the case clearly does not warrant further review.

Respectfully submitted,

Arthur Lazarus, Jr.
Attorney for Respondent
Seneca Nation of Indians

Of Counsel:

Fried, Frank, Harris,
Shriver & Kampelman

CERTIFICATE OF SERVICE

I, Arthur Lazarus, Jr., attorney for Seneca Nation of Indians, Respondent herein, and a member of the Bar of the Supreme Court of the United States, hereby certify that three copies of respondent's Memorandum Opposing Certiorari were mailed, first class postage prepaid, this day of , 1971, to each of the following attorneys: Honorable Erwin N. Griswold, Solicitor-General, Department of Justice, Washington, D.C. 20530, counsel for respondent United States of America, and to Benjamin C. Perreault, Congdon, Congdon & Perreault, 107 Main Street, Salamanca, New York 14779, attorneys for petitioner and that all parties required to be served were served.

Arthur Lazarus, Jr.
Attorney for Respondent
Seneca Nation of Indians